

Ann Morgan

From: Joe Laydon
Sent: Monday, November 09, 2015 4:20 PM
To: David Robbins; Hassinger Linda C.; Michael Scully; Robert Hassinger; Sargon Hanna
Cc: Ann Morgan
Subject: FW: "Grafton Hill"

Please find an email from Ginny Kremer, Town Counsel regarding tonight's Grafton Hill public hearing. She will be in attendance tonight.

Joe

From: Ginny Kremer [mailto:ginny@bbmatlaw.com]
Sent: Monday, November 9, 2015 4:04 PM
To: Joe Laydon
Subject: RE: "Grafton Hill"

EXHIBIT

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Hi Joe:

As we discussed, my understanding is that we are going to approach this evening's hearing as an opportunity to understand the claims, arguments, and proposals being set forth by the applicant on his 81W application for modification of a 1953 definitive subdivision plan. After speaking with both you and Joe Antonellis, I believe that all three of us are on the same page about this.

Having spent the better part of the day reviewing the relevant statutes and cases, it is fair to say that the status of the 1953 approved subdivision is legally very complicated and perhaps not ascertainable without the involvement of a court. What is clear is that the subdivision has lost the benefit of any zoning freeze under 40A, and therefore the lots must comply with current zoning. What is also clear is that there are no applicable local rules and regulations since there were none when the plan was approved.

What is not clear is the exact legal rights the current owner has as a result of the 1953 plan. As it has been mortgaged based on value as an approved subdivision, it is not clear (there is no case on point) whether the Planning Board could modify or rescind the plan on its own petition under 81W, ¶ 2, without the consent of the owner. I intend to listen to the applicant's position on that issue and form my own opinion after that.

I realize that this does not respond to many of Bob's questions, but I require more information in order to do so, which hopefully will be forthcoming this evening.

If you need to reach me before then. Please call me on my cell phone at 617.312.2323.

Thanks,
Ginny

Ginny Sinkel Kremer, Esq.
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From: Joe Laydon [<mailto:LaydonJ@GRAFTON-MA.GOV>]
Sent: Monday, November 09, 2015 2:05 PM
To: Ginny Kremer <ginny@bbmatlaw.com>
Subject: RE: "Grafton Hill"

That is it. I am here in the office if you want to call.

From: Ginny Kremer [<mailto:ginny@bbmatlaw.com>]
Sent: Monday, November 9, 2015 1:46 PM
To: Joe Laydon
Subject: RE: "Grafton Hill"

Joe – when Bob refers to "Joe's Brief" does he mean the letter from Antonellis dated 9/17/15 or is there something beyond that that I do not have?

When can you talk?

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From: Joe Laydon [<mailto:LaydonJ@GRAFTON-MA.GOV>]
Sent: Monday, November 09, 2015 9:59 AM
To: Ginny Kremer <ginny@bbmatlaw.com>

Cc: Robert Hassinger <r.hassinger@ieee.org>

Subject: Re: "Grafton Hill"

Ideally in writing.

Sent from my iPhone

On Nov 9, 2015, at 9:42 AM, Ginny Kremer <ginny@bbmatlaw.com> wrote:

Hi Bob & Joe:

I have meetings this morning but will focus on this matter after that. Would you like to discuss by phone or would you prefer that I respond to your questions in writing?

Thanks,

Ginny

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From: Joe Laydon [<mailto:LaydonJ@GRAFTON-MA.GOV>]

Sent: Sunday, November 08, 2015 11:18 PM

To: Robert Hassinger <r.hassinger@ieee.org>

Cc: Ginny Kremer <ginny@bbmatlaw.com>

Subject: Re: "Grafton Hill"

Bob,

Just so you know, I have never seen anything like this either and am looking for assistance from Ginny. While intellectually I know of how subdivisions endorsed can be valid provided lots are sold out of them, I have not had the experience of going through a process such as this.

I also know that this will not be over in one hearing. It may take a couple hearings to fully understand what is going on. Joe's letter lays out their position and Ginny will help us figure things out.

Joe

Sent from my iPhone

On Nov 8, 2015, at 10:42 PM, Bob Hassinger <r.hassinger@ieee.org> wrote:

Ginny, After close of business on Friday I became aware for the first time of the "Grafton Hill" 1953 Subdivision modification application we will be hearing on Monday. Joe tells me you have been looking at it and you will be present on Monday. I have no information from Joe or you with which to prepare for the Monday evening meeting. Without background it is very difficult for me to come to the hearing prepared to ask relevant questions and I object to being placed in that position.

There are a number of things I have in mind, some of which are probably obvious. The separation between what we **may** do and what we **must** do for example.

A point that interests me is the Ch 41 Section 81W reference in Joe's brief. As I read it the Board **may** alter approved subdivision plans. I think Joe is citing that to support asking us to modify the 1953 plan.

A piece that is not clear is the mention in 81W of a Planning Board being able to modify an approved plan **on its own petition**. Would the Board be able to modify that 1953 plan on its own petition, perhaps to bring it into compliance with, or at least closer to current rules (perhaps particularly given the absences of **any** adopted rules at the time of the 1953 approval). Could such a modification result in a change in the number of lots?

One other point that concerns me in initial review of this is the use of squared off outside edges of road curve layouts to increase frontage. I wonder if even our current rules and regulations actually control that. In a case like what we see with this we get into questions about land between the required layout (typically 50 feet - 25 feet on each side of the centerline, laid out with a 100 foot minimum centerline radius, meaning the outside edge would be 25 feet from the center line and follow a 125 foot radius. Regarding the land that is beyond that 50 foot layout but still within the right of way/easement/whatever that is shown on the plan: does the Town accept the land, giving the abutting lot(s) lot added frontage and does (do) abutter(s) have a right to cross it for access to the roadway for example? can they claim frontage when the Town controls that bit of land between the squared off lines and the 50 foot right of way? I am not clear that base is covered in our our current rules or the law in general, but surely the question has come up many times. I seem to recall the question of access across slivers like that has come up within my time on the Planning board in fact, but not in connection to an issue like this current subdivision plan and modification.

Thanks,
Bob Hassinger

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